

HOUSE BILL NO. 415

INTRODUCED BY R. SOMERVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE FUNDING SOURCE FOR THE ALCOHOL TAX INCENTIVE FROM THE GASOLINE LICENSE TAX TO THE STATE GENERAL FUND; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 15-70-502, 15-70-522, AND 17-7-502, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-502, MCA, is amended to read:

"15-70-502. Purpose. The purpose of this part is to establish schedules for the tax incentive for the production of alcohol to be blended for gasohol and to provide for the proper administration and enforcement of the tax incentive. The schedules for the tax incentive are designed to stimulate the development of alcohol fuel production in Montana while limiting the cost to the state of the tax incentive to amounts that are reasonable ~~in relation to the highway revenue needs of Montana.~~"

Section 2. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol -- written plan required -- reservation of incentives -- rules. (1) (a) If the alcohol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol that:

(i) was blended with gasoline for sale as gasohol in Montana;

(ii) was exported from Montana and has been blended with gasoline for sale as gasohol; or

(iii) was used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) ~~Payment must~~ The payment to be made by the department ~~out of the amount collected under~~ 15-70-204 is statutorily appropriated, as provided in 17-7-502, from the general fund.

(2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of alcohol distilled in accordance with subsection (1) is 30 cents ~~per~~ a gallon for each gallon that is 100% produced

1 from Montana products, with the amount of the tax incentive ~~per~~ a gallon reduced proportionately, based
2 upon the amount of agricultural or wood products not produced in Montana that is used in the production
3 of the alcohol, and beginning July 1, 2005, there is no tax incentive.

4 (3) Regardless of the alcohol tax incentive provided in subsection (2), the total payments made
5 for the incentive under this part may not exceed \$6 million in any consecutive 12-month period.

6 (4) An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed
7 \$3 million in any consecutive 12-month period.

8 (5) An alcohol distributor who begins production after July 1, 1991, may not receive tax incentive
9 payments under subsection (2) unless the distributor has provided a written plan to the department ~~of~~
10 ~~transportation~~ at least 18 months before the distributor's anticipated collection of the tax incentives. The
11 plan must contain the following information:

12 (a) the source or sources of financing for the acquisition of the plant, land, and equipment used
13 for the production of gasohol;

14 (b) the anticipated source of agricultural products used in the production of gasohol; and

15 (c) the anticipated time, quantity, and duration of production of gasohol.

16 (6) An alcohol distributor in production before July 1, 1991, is entitled to apply for the maximum
17 tax incentive payment allowed under subsection (4) without providing a written plan as required in
18 subsection (5).

19 (7) (a) Except as provided in subsection (7)(b), the department shall reserve, in the order that
20 written plans required under subsection (5) are received by the department, alcohol tax incentives based
21 on the anticipated time, quantity, and duration of production. Payment of the alcohol tax incentives must
22 be based on actual production.

23 (b) No later than 1 year after the written plan is received under subsection (5), the department
24 shall determine whether an alcohol distributor is complying with the written plan. The department may
25 reduce or cancel the reservation of the tax incentive provided in this subsection (7) if the department
26 determines that the alcohol distributor has not materially complied with the written plan.

27 (8) A new tax incentive payment may not be made if the total tax incentive established in
28 subsection (3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the
29 amount by which the tax incentive has been reduced or canceled is available for reservation as provided
30 in subsection (7)(a).

(9) The department shall ~~prescribe~~ adopt rules necessary to carry out the provisions of this section."

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-522; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of

1 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
2 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
3 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
4 terminates June 30, 2005.)"

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